

THE HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

GEORGE JOHNSON,

Plaintiff,

vs.

DONALD P. WANG IN PERSONAM; THE
F/V THOR, OFFICIAL NUMBER 224713,
HER ENGINES, MACHINERY,
APPURTENANCES AND CARGO, IN REM,

Defendants.

Case No. 2:16-cv-01738-JLR

**PARTIES' STIPULATED PRETRIAL
ORDER**

JURISDICTION

Jurisdiction is vested in this Court by virtue of 28 U.S.C. § 1333.

CLAIMS AND DEFENSES

The plaintiff will pursue at trial the following claims: Quantum meruit wages under the general maritime law, and to prevent unjust enrichment to the defendants; double wage penalties and attorney fees for the failure to pay wages, without any bona fide dispute over plaintiff's entitlement; punitive damages for the willful and wanton refusal to pay wages; prejudgment interest.

PLAINTIFF'S PROPOSED PRETRIAL ORDER - 1
CASE NO. 2:16-cv-01738-JLR

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1 1. Because Defendant's counterclaim was terminated on 8/22/2017, Defendant will
2 pursue the following affirmative defenses:

3 a. Lack of consideration

4 b. Fraud

5 c. Unclean hands

6 **ADMITTED FACTS**

7 The following facts are admitted by the parties:

8 1. The F/V Thor is a 62-foot wooden halibut schooner of 70 gross tons, built 1925 in
9 Tacoma.

10 2. Defendant Wang purchased the F/V Thor on July 12, 2016 for \$25,000.

11 3. Defendant Wang applied for and was issued a commercial fishing license for the
12 F/V Thor with George Johnson's name on it.

13 4. Throughout July and August of 2016, Defendant Wang and plaintiff Johnson
14 engaged in discussions regarding George Johnson skippering the F/V Thor for the 2016 Tuna
15 Season, however the two could not agree on terms.

16 **ISSUES OF LAW**

17 The following are issues of law to be determined by the Court:

18 1. Is plaintiff entitled to quantum meruit wages if Defendant breached an oral
19 contract of employment?

20 2. Is the plaintiff entitled to wages at a higher rate than \$15/hour if Defendant
21 breached his promise to let plaintiff fish the 2016 tuna season?

22 3. If the Court finds that there was no contract of employment, is Plaintiff entitled to
23 quantum meruit wages to prevent unjust enrichment to Defendant?

1 4. Are punitive damages available to commercial fishermen asserting wage claims?
2
3

4 **EXPERT WITNESSES**

5 On Behalf of Plaintiff: None.

6 On Behalf of Defendant: None
7

8 **OTHER WITNESSES**

9 On Behalf of Plaintiff:

10 1. Plaintiff himself

11 2. Elwood Latta

12 3. Frank Price

13 4. Steven Alexander

14 5. Rick Beze

15 6. Ray Forsman

16 7. Officer Matthew Huston

17 8. Alexander Oldfin

18 9. Aaron Vantleven

19 10. Donald Wang
20

21 On Behalf of Defendant:

22 1. Tom Riedinger

23 2. Donald Wang

3. Defendant reserves the right to call each/all of Plaintiff's witnesses as his own

EXHIBITS

Authenticity stipulated, admissibility disputed:

Plaintiff's Exhibits:

1. Certificate of Documentation for F/V Thor.
2. General Index or Abstract of Title for F/V Thor.
3. Primary Operator License (for plaintiff) from the Washington Department of Fish and Wildlife; and a detail of expenditures made by plaintiff for the F/V Thor.
4. Pacific Highly Migratory Species Vessel Permit for F/V Thor and Donald P. Wang from National Marine Fisheries Service, issued July 28, 2016
5. June – September calendar pages for days and hours worked by plaintiff on the F/V Thor.
6. Partial List of work performed on the F/V Thor by plaintiff.
7. Transcript of Donald P. Wang deposition
8. Port of Seattle Police Department Report and Supplement Report # 2016-41751

Defendant's Exhibits:

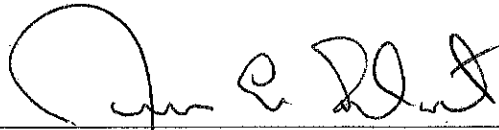
1. United States Coast Guard MISLE Incident Investigation Report For MISLE Case Number: 472191.

ACTION BY THE COURT

- (a) This case is scheduled for trial without a jury on August 13, 2018.
- (b) Trial briefs shall be submitted to the Court on or before August 6, 2018.
- (c) Each party is allocated 3.75 hours for trial.

1 THIS ORDER has been approved by the parties by evidenced by the signatures of their
2 counsel. THIS ORDER shall control the subsequent course of the action unless modified by
3 subsequent order. THIS ORDER shall not be amended except by Order of the Court pursuant to
4 agreement of the parties or to prevent manifest injustice.

5 DATED this 30th day of July, 2018.

6
7 
8 JAMES L. ROBART
United States District Judge
9

10
11
12 Approved as to Form:

13 LAW OFFICE OF JOHN MERRIAM and
14 Neil Lindquist

15 By: /s/ John W. Merriam
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